

TERMS AND CONDITIONS
FOR AMERICAN RECOVERY AND REINVESTMENT
ACT OF 2009 FUNDED GRANTS

ENERGY EFFICIENCY AND CONSERVATION
BLOCK GRANT PROGRAM

AWARD #



**TERMS AND CONDITIONS
TABLE OF CONTENTS**

SECTION	PAGE NO.
1. Grant Agreement	1
2. Attachments and References	1
3. Funding Limitations.....	3
4. Due Diligence.....	3
5. Products	4
6. Reports.....	4
7. Publications - Legal Statement on Reports and Products	5
8. Changes to the Agreement.....	6
9. Contracting and Procurement Procedures.....	8
10. Bonding and Insurance.....	10
11. Permits and Clearances	10
12. Equipment.....	10
13. Termination	10
14. Travel and Per Diem.....	11
15. License	11
16. Standard of Performance.....	12
17. Payment of Funds.....	13
18. Fiscal Accounting Requirements.....	16
19. Indemnification	18
20. Disputes	18
21. Workers' Compensation Insurance	20
22. General Provisions.....	20
23. Certifications and Compliance	23
24. Additional Requirements for Federally Funded Grants.....	25

25.	Special Provisions Relating to Work Funded Under the American Recovery and Reinvestment Act of 2009	30
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TERMS AND CONDITIONS

1. ***Grant Agreement***

This project is being funded with a grant from the California Energy Commission (Commission). The Commission obtained the funds to make this grant through a federal grant agreement [Recovery Act: State of California Energy Efficiency and Conservation Block Grant (EECBG), number DE-EE0000905] with the Department of Energy (DOE). It is hereby understood and agreed that this Agreement shall be governed by the laws of the State of California (State) as to interpretation and performance.

This Agreement is comprised of the grant funding award, the Terms and Conditions, and all attachments. These Terms and Conditions are standard requirements for grant awards. The Commission may impose additional special conditions in this grant Agreement that address the unique circumstances of this project. Special conditions that conflict with these standard provisions take precedence.

The Recipient's authorized representative shall sign all six copies of this Agreement and return five signed packages to the Commission's Grants and Loans Office within 30 days. Failure to meet this requirement may result in the forfeiture of this award. When all required signatures are obtained, an executed copy will be returned to the Recipient.

All work and/or the expenditure of funds (Commission-reimbursed and/or match share) must occur within the approved term of this Agreement. The Commission cannot authorize any payments until all parties sign this Agreement.

2. ***Attachments and References***

The following are attached and hereby expressly incorporated into this Agreement.

- Payment Request Form.
- Assurances of Compliance, Nondiscrimination in Federally Assisted Programs.
- Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements.
- Disclosure of Lobbying Activities.
- National Policy Assurances.
- Intellectual Property Provisions.
- Project Type Metrics.
- Work Statement.
- Budget.
- Resolution of the Recipient or Local Jurisdiction Governing Body (if applicable).

- Resolution of the California Energy Commission (if applicable).
- Special Conditions (if applicable).

The Office of Management and Budget (OMB) Circulars and/or federal regulations checked below are incorporated by reference as part of this Agreement. Any apparent inconsistency between the Circulars, federal regulations and guidelines and the Terms and Conditions and any Special Provisions contained in this award must be referred to the Commission's Chief Counsel's Office for guidance. The OMB Circulars and federal regulations are used to help guide the administration of this Agreement when questions arise during the course of performance of the award. OMB Circulars may be accessed on the OMB web site at www.whitehouse.gov/omb/circulars/index.html or by calling the Office of Administration, Publications Office, at (202) 395-7332. Federal regulations may be accessed at <http://ecfr.gpoaccess.gov>.

The Recipient must include in its subawards the provisions below that apply to the particular organization concerned.

- ☒ Title 10 Code of Federal Regulations (CFR) Part 600: Department of energy (DOE) Financial Assistance Regulations
- ☒ Title 10 Code of Federal Regulations (CFR) Part 420: State Energy Program
- ☒ Title 48 Code of Federal Regulations (CFR), Ch. 1, Subpart 31.2: Contracts with Commercial Organizations (Supplemented by 48 CFR, Ch. 9, Subpart 931.2 for Department of Energy grants) (commercial firms and certain non-profit organizations)
- ☒ State Energy Program Funding Opportunity Announcement DE-FOA-0000052, CDFA Number 81.041, State Energy Program (<https://www.fedconnect.net/FedConnect/>)
- ☒ OMB Circular A-102: Common Rule for Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments
- ☒ OMB Circular A-110: Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations (also applicable to private entities)
- ☒ OMB Circular A-87: Cost Principles for State, Local and Tribal Governments
- ☒ OMB Circular A-21: Cost Principles for Educational Institutions

- ☒ OMB Circular A-122: Cost Principles Applicable to Grants, Contracts, and Other Agreements with Non-Profit Organizations (non-profit organizations and individuals, except for those specifically exempted)
- ☒ OMB Circular A-133: Audits of States, Local Governments, and Non-Profit Organizations
- ☐ Other: _____
- ☐ None

3. *Funding Limitations*

Any federal, State, and local laws and regulations applicable to your project not expressly listed in this Agreement are incorporated herein as part of this Agreement.

The funding source(s) and applicable restriction(s) identified below apply to this grant:

- Funding for this Agreement is dependent upon a federal grant agreement, which is scheduled to terminate on September 13, 2012. Funding for this Agreement is subject to the approval of the applicable Federal Government agency, federal law, federal court judgments, and/or federal agency orders that may affect the provisions or terms of this Agreement.
- Energy Efficiency and Conservation Block Grant (EECBG)
Funding for this Agreement is approved as part of the EECBG grant. Grant funds may be used only as approved in the California EECBG.
- Supplanting
Grant funds may not be used to supplant (i.e., take the place of) previously budgeted funds for this project, whether Recipient funds or funding from other grants. This includes budgeting for staff, contractors, or supplies. Funds may be used to supplement an existing budget.

4. *Due Diligence*

The Recipient is required to take timely actions which, taken collectively, move this project to completion. The Commission Project Manager will periodically evaluate the schedule for completion of Work Statement tasks. If the Commission Project Manager determines (1) the Recipient is not being diligent in completing the tasks in the Work Statement or (2) the time remaining in this Agreement is insufficient to complete all project work tasks by the approved Agreement end term date, the Project Manager may recommend to the Policy Committee of the Commission

(Committee) that this Agreement be terminated, and the Committee may, without prejudice to any of its remedies, terminate this Agreement.

5. Products

Products are defined as any tangible item specified in the Work Statement. Unless otherwise directed, draft copies of all products identified in the Work Statement shall be submitted to the Commission Project Manager for review and comment. The Recipient will submit an original and two copies of the final version of all products to the Commission Project Manager.

6. Reports

a. Progress Reports

Progress reports are due until project completion. See Section 25 for progress report due dates and content.

b. Final Reports

A draft final report shall be submitted to the Commission Project Manager no later than 60 days prior to the end of the Agreement term. At a minimum, the report shall include:

- Table of Contents.
- Abstract.
- A brief summary of the objectives of the project and how these objectives were accomplished.
- Any findings, conclusions, or recommendations for follow-up or ongoing activities that might result from the successful completion of the project.
- A statement of future intent of the grant Recipient to maintain or further develop the project.
- A Payment Request form for the final payment (including any retention).
- A consolidated list of subcontractors funded in whole or in part by the grant Recipient. Include the name, address, concise statement of work done, period, and value of each.
- Additional information specified in the Work Statement or Special Conditions.

The Commission Project Manager will review the draft report. The Recipient will incorporate applicable comments and submit the final report (the original and two copies) to the Commission Project Manager.

Upon receipt of the final report, the Commission Project Manager shall ensure that all work has been satisfactorily completed.

c. Rights in Reports

The Commission reserves the right to use and reproduce all reports and data produced and delivered pursuant to this Agreement, and reserves the right to authorize others to use or reproduce such materials. Each report becomes the property of the Commission.

d. Failure to Comply with Reporting Requirements

Failure to comply with the reporting requirements contained in this Agreement will be considered a material noncompliance with the terms of this Agreement. Noncompliance may result in withholding of future payments, suspension or termination of the current award, and withholding of future awards. A willful failure to perform, a history of failure to perform, or unsatisfactory performance of this and/or other financial assistance awards, may also result in a debarment action to preclude future awards.

7. Publications - Legal Statement on Reports and Products

- a. You are encouraged to publish or otherwise make publicly available the results of the work conducted under the award.
- b. An acknowledgment of California Energy Commission and federal support and a disclaimer must appear in the publication of any material, whether copyrighted or not, based on or developed under this project, as follows:

Acknowledgment: "This material is based upon work supported by the California Energy Commission and the Department of Energy under Award Number(s) DE-0000905."

Disclaimer: "This report was prepared as an account of work sponsored by an agency of the United States Government. Neither the California Energy Commission, the United States Government, nor any agency thereof, nor any employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product,

process, or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or favoring by the California Energy Commission, the United States Government, or any agency thereof. The views and opinions of authors expressed herein do not necessarily state or reflect those of the California Energy Commission, the United States Government, or any agency thereof.”

8. *Changes to the Agreement*

a. Significant Changes

Significant changes to this Agreement must be approved at a Commission business meeting through a formal amendment. Significant changes include, but are not limited to:

- Change of Recipient’s legal name,
- Change of Recipient,
- Changes in order to disencumber funds,
- Changes to the Work Statement that reasonably modify the purpose of the Agreement,
- Changes to the Work Statement that extend the due dates beyond the term of the Agreement,
- Changes to the Budget that increase the amount of the Agreement,
- Changes to the Budget that increase rates or fees.

The Recipient shall submit a request in writing to the Project Manager with a copy to the Commission Grants and Loans Officer for any significant change. The Project Manager will notify the Recipient Project Manager of the appropriate Commission action within ten (10) working days.

b. Nonsignificant Changes

Changes that are not significant to the Agreement do not need to be approved at a Commission business meeting through a formal amendment. These changes shall be documented in a Letter of Agreement, signed by both parties.

c. Budget Reallocations

- (1) The Commission, through its Project Manager and Grants and Loans Officer, and the Recipient can agree upon and make certain budget reallocations without a formal amendment to this Agreement as long as ALL of the following conditions are met:

- (a) The total of all budget reallocations cannot exceed ten percent (10%) with a cap amount of \$75,000 of the Agreement

Amount. For purposes of this provision, “Agreement Amount” means the total amount of Commission funds being paid to the Recipient under this Agreement. It does not include any match funds provided by the Recipient.

For example, if under an agreement the Commission agrees to pay a recipient \$100,000 and the recipient is supplying \$500,000 in match funding, the ten percent (10%) limitation applies to the \$100,000. Only up to \$10,000 of Commission funds could be reallocated without a formal amendment. If under an agreement the Commission agrees to pay a recipient \$800,000, ten percent would be \$80,000, but the cap is \$75,000, so the most that could be reallocated without a formal amendment is \$75,000.

- (b) The budget reallocation cannot substantially change the scope of work. Examples of budget reallocations that do not substantially change the scope of work include, but are not limited to, the following:
 - Increasing or decreasing the overall travel budget. This does not mean an increase to the allowed per diem rates under this Agreement.
 - Increasing or decreasing the equipment budget.
 - Increasing or decreasing the number of personnel assigned to complete tasks. This does not include increasing the hourly rates of the personnel and classifications listed in the budget. Increasing hourly rates requires a formal amendment. The addition of personnel also requires a formal amendment unless there is already an identified classification of rates in the budget that the new personnel will be filling.
 - (c) The budget reallocation only involves moving funds between tasks, line items, or categories. The total Agreement Amount must remain unchanged. Increasing the total amount of the Agreement requires a formal amendment.
 - (d) The budget reallocation does not increase the percentage rate of Indirect Overhead, Fringe Benefits, General and Administrative Costs, or any other rates listed in the budget. For example, if an agreement budget lists the Indirect Overhead percentage rate as 25% of Direct Labor, the 25% cannot be changed without a formal amendment.
- (2) To effectuate a budget reallocation under this section, the Recipient must make a request in writing to both the Project Manager and the Grants and Loans Officer. Both the Project Manager and the Grants and Loans Officer will then approve or disapprove the request in

writing; the approval or disapproval is not effective or binding unless signed by both the Project Manager and the Grants and Loans Officer. Oral communications cannot be used or relied upon. If the request is approved, the Project Manager shall revise the Budget Attachments to reflect the changes and send them to the Grants and Loans Officer and the Recipient.

- (3) Any desired budget reallocations that do not meet the four criteria in this section must be made through a formal amendment. For purposes of this provision, a “formal amendment” means that all of the following must occur: approval by the Commission at a Commission business meeting and a written amendment signed by both parties.
- (4) Attempted budget reallocations that do not meet the requirements of this section are not legally binding upon the parties.

d. Amendments

This Agreement may be amended to make changes, including without limitation, additional funds, additional time, additional or modified tasks, and additional or modified terms. Amendments may be made without competitively bidding, so long as the amendment is exempt from competitive bidding pursuant to Public Contract Code Section 10335, Government Code Section 11010.5, and the State Contract Manual.

e. Federal Approval

Amendments may also require prior written approval from the federal granting agency.

9. ***Contracting and Procurement Procedures***

This section provides general requirements for an agreement between the Recipient and a third party (“subcontractor”).

The Recipient is required, where feasible, to employ contracting and procurement practices that promote open competition for all goods and services needed to complete this project. Recipient shall obtain price quotes from an adequate number of sources for all subcontracts.

Subcontracting criteria are specified in the applicable OMB Circulars and/or federal regulations incorporated by reference in this Agreement. The Commission will defer to the Recipient's own regulations and procedures as long as they reflect applicable state and local laws and regulations and are not in conflict with the minimum standards specified in this Agreement and any OMB Circulars and/or federal regulations incorporated by reference in this Agreement.

Upon request, the Recipient must submit to the Commission Project Manager a copy of all solicitations for services or products required to carry out the terms of this Agreement, copies of the proposals or bids received, and copies of subcontracts executed. If a specific subcontractor was identified in the original grant application and the grant was evaluated based in part on this subcontractor's qualifications, then prior written approval from the Commission Project Manager is required before substituting a new subcontractor.

The Recipient is responsible for handling all contractual and administrative issues arising out of or related to any subcontracts it enters into under this Agreement.

All subcontracts must incorporate all of the following:

- A clear and accurate description of the material, products, or services to be procured as well as a detailed budget and timeline.
- Provisions that allow for administrative, contractual, or legal remedies in instances where subcontractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.
- Provisions for termination by the Recipient, including termination procedures and the basis for settlement.
- Language conforming to the "Nondiscrimination" provision in this Agreement.
- Any additional requirements specified in the OMB Circulars incorporated by reference in this Agreement.
- The Standard of Performance provisions specified in this Agreement.
- Retention of Records provisions specified in this Agreement.
- Audits provisions specified in this Agreement.
- Language conforming to the "Indemnification" provision in this Agreement.
- Language conforming to the "License" provision in this Agreement.
- National Policy Assurances, where applicable.
- Language conforming to the "Lobbying Activities" provision in this Agreement.
- All additional requirements specified in Section 24 of this Agreement, Additional Requirements for Federally Funded Grants.

- All additional requirements specified in Section 25 of this Agreement, Special Provisions Relating to Work Funded under the American Recovery and Reinvestment Act of 2009.

Failure to comply with the above requirements may result in the termination of this Agreement.

10. *Bonding and Insurance*

The Recipient will follow its own bonding and insurance requirements relating to bid guarantees, performance bonds, and payment bonds without regard to the dollar value of the subcontract(s) as long as they reflect applicable state and local laws and regulations and are not in conflict with the minimum standards specified in the OMB Circulars and/or federal regulations incorporated by reference in this Agreement.

11. *Permits and Clearances*

The Recipient is responsible for ensuring all necessary permits and environmental documents are prepared and clearances are obtained from the appropriate agencies.

12. *Equipment*

Title to equipment acquired by the Recipient with grant funds shall vest in the Recipient. The Recipient shall use the equipment in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by grant funds, and the Recipient shall not encumber the property without Commission Project Manager approval. When no longer needed for the original project or program, the Recipient shall contact the Commission Project Manager for disposition instructions.

Recipient should refer to the applicable OMB circulars and/or federal regulations incorporated by reference in this Agreement for additional equipment requirements.

13. *Termination*

This project may be terminated for any reason set forth below.

a. With Cause

In the event of any breach by the Recipient of the conditions set forth in this Agreement, the Commission Policy Committee may, without prejudice to any of its legal remedies, terminate this Agreement for cause upon five (5) days written notice to the Recipient.

b. Without Cause

The Commission Policy Committee may, at its option, terminate this Agreement without cause in whole or in part, upon giving thirty (30) days advance notice in writing to the Recipient by certified mail, return receipt requested. In such event, the Recipient agrees to use all reasonable efforts to mitigate the Recipient's expenses and obligations hereunder. Also in such event, the Commission shall pay the Recipient for all satisfactory work performed and expenses incurred within 30 days after such notice of termination which could not by reasonable efforts of the Recipient have been avoided, but not in excess of the maximum payable under this Agreement.

14. *Travel and Per Diem*

- a. The Recipient shall be reimbursed for travel and per diem expenses using the same rates provided to non-represented State employees. The Recipient must pay for travel in excess of these rates. The Recipient may obtain current rates from the Energy Commissions Web Site at: http://www.energy.ca.gov/contracts/TRAVEL_PER_DIEM.PDF.
- b. Travel identified in the Budget section of this Agreement is approved and does not require further authorization.
- c. Travel that is not included in the Budget section of this Agreement shall require written authorization from the Project Manager and Grants and Loans Officer prior to travel departure. The Energy Commission will reimburse travel expenses from the Recipient's office location.
- d. The Recipient must retain documentation of travel expenses in its financial records. The documentation must be listed by trip and include dates and times of departure and return. Travel receipts, except for travel meals and incidentals, shall be submitted with invoices requesting reimbursement from the Energy Commission.

15. *License*

- a. The Commission shall be granted a no-cost, nonexclusive, nontransferable, irrevocable worldwide license to use or have practiced for or on behalf of the State inventions developed hereunder and patents or patent applications derived from such inventions. Recipient must obtain agreements to effectuate this clause with all persons or entities obtaining ownership interest in the patented subject inventions.
- b. The Commission makes no claim to intellectual property that existed prior to this Agreement and was developed without Commission funding. If applicable, the Recipient gives notice that the items listed in the Intellectual Property attachment or exhibit have been developed without Commission funding and prior to the start of this Agreement. This list represents a brief description of the prior developed intellectual property. A detailed description of the intellectual property, as it exists on the effective date of this Agreement, may be necessary if Commission funds are used to further develop the listed intellectual property. This information will assist the parties to make an informed decision regarding intellectual property rights.
- c. The Commission shall be granted the no-cost use of the technical data first produced or specifically used in the performance of this Agreement.
- d. The Commission shall be granted a royalty-free nonexclusive, irrevocable, nontransferable worldwide license to produce, translate, publish, use and dispose of, and to authorize others to produce, translate, publish, use and dispose of all copyrightable material first produced or composed in the performance of this Agreement.

16. *Standard of Performance*

Recipient, its subcontractors and their employees, in the performance of Recipient's work under this Agreement shall be responsible for exercising the degree of skill and care required by customarily accepted good professional practices and procedures used in the Recipient's field.

Any costs for failure to meet the foregoing standard or to correct otherwise defective work that requires re-performance of the work, as directed by Commission Project Manager, shall be borne in total by Recipient and not the Commission. The failure of a project to achieve the performance goals and objectives stated in the Work Statement is not a basis for requesting re-performance unless the work conducted by Recipient and/or its subcontractors is deemed by the Commission to have failed the foregoing standard of performance.

In the event Recipient/subcontractor fails to perform in accordance with the above standard:

- Recipient/subcontractor will re-perform, at its own expense, any task which was not performed to the reasonable satisfaction of the Commission Project Manager. Any work re-performed pursuant to this paragraph shall be completed within the time limitations originally set forth for the specific task involved. Recipient/subcontractor shall work any overtime required to meet the deadline for the task at no additional cost to the Commission;
- The Commission shall provide a new schedule for the re-performance of any task pursuant to this paragraph in the event that re-performance of a task within the original time limitations is not feasible; and
- The Commission shall have the option to direct Recipient/subcontractor not to re-perform any task which was not performed to the reasonable satisfaction of the Commission Project Manager pursuant to application of (1) and (2) above. In the event the Commission directs Recipient/subcontractor not to re-perform a task, the Commission and Recipient shall negotiate a reasonable settlement for satisfactory work performed. No previous payment shall be considered a waiver of the Commission's right to reimbursement.

Nothing contained in this section is intended to limit any of the rights or remedies which the Commission may have under law.

17. *Payment of Funds*

The Energy Commission agrees to reimburse the Recipient for actual allowable expenditures incurred in accordance with the Budget. The rates in the Budget are rate caps, or the maximum amount allowed to be billed. The Recipient can only bill for actual expenses incurred at the Recipient's actual direct labor rate(s), fringe benefit rate(s), and indirect rate(s), not to exceed the rates specified in the Budget.

a. *Payment Requests*

The Recipient may request payment from the Commission at any time during the term of this Agreement although it is preferred that payment requests be submitted with the progress reports. The final payment request must be received by the Energy Commission along with the draft Final Report 60 days prior to the end of the Agreement term.

Payments will generally be made on a reimbursement basis for Recipient expenditures, i.e., after the Recipient has paid for a service, product, supplies, or other approved budget item. No reimbursement for food or beverages shall be made other than allowable per diem charges.

As a general rule, advance payments are not allowed and discouraged. The Commission, at its sole discretion, may honor advance payment requests if warranted by **compelling need**. Advance payments shall only be made upon the satisfaction of conditions intended to protect grant funds from loss or misuse, including (1) demonstrating the willingness and ability to maintain procedures to minimize the time elapsing between the receipt of the advanced funds and the Recipient's disbursement of the funds, (2) depositing all advance payments into a separate interest-earning account; (3) reporting interest earned on advance payments to the Commission Project Manager and remitting quarterly to the Commission's Accounting Office; (4) accounting for the expenditure of all advance payments and returning any unexpended advanced funds within 120 days of the advance or 60 days prior to termination of this Agreement, whichever comes sooner, unless the Commission Grants and Loans Office specifies a different time period; (5) other conditions as specified by the Grants and Loans Office.

Funds in this Agreement have a limited period in which they must be expended. All Recipient expenditures (Commission-reimbursed and match share) must occur within the approved term of this Agreement.

b. Documentation

All payment requests must be submitted using a completed Payment Request form (Exhibit A). This form must be accompanied by an itemized list of all charges and copies of all receipts or invoices necessary to document these charges for both Commission and match share, including backup documentation for actual expenditures, such as time cards, vendor invoices, and proof of payment. Any payment request that is submitted without the itemization will not be authorized. If the itemization or documentation is incomplete, inadequate, or inaccurate, the Commission Project Manager will inform the Recipient and hold the invoice until all required information is received or corrected. Any penalties imposed on the Recipient by a subcontractor because of delays in payment will be paid by the Recipient.

Any documentation in foreign currency must be converted to dollars, and the conversion rate must be included in your itemization.

c. Certification

The following certification shall be included on each Payment Request form and signed by the Recipient's authorized officer:

I certify to the best of my knowledge and belief that this report is correct and complete and all outlays and obligations are for the purposes set forth in the funding

Agreement and that the reimbursement of these costs has not and will not be received under other sources including, but not limited to, a Government Entity contract, subcontract or other procurement method.

d. Government Entity

Government Entity is defined as a governmental agency from California or any state or a state college or state university from California or any state; a local government entity or agency, including those created as a Joint Powers Authority; an auxiliary organization of the California State University or a California community college; the Federal Government; a foundation organized to support the Board of Governors of the California Community Colleges or an auxiliary organization of the Student Aid Commission established under Education Code 69522.

e. Release of Funds

The Commission Project Manager will not process any payment request during the Agreement term until the following conditions have been met:

- All required reports have been submitted and are satisfactory to the Commission Project Manager.
- All applicable special conditions have been met.
- All appropriate permits or permit waivers from governmental agencies have been issued to the Recipient and copies have been received by the Commission Project Manager.
- All products due have been submitted and are satisfactory to the Commission Project Manager.
- Other prepayment conditions as may be required by the Commission Project Manager have been met. Such conditions will be specified in writing ahead of time, if possible.

f. Fringe Benefits, Indirect Overhead, General and Administrative (G&A), and Facilities and Administration (F&A)

Indirect cost rates must be developed in accordance with generally accepted accounting principles and the applicable OMB circulars or federal acquisition regulations. If the Recipient has an approved fringe benefits or indirect cost rate (indirect overhead, G&A, or F&A) from their cognizant Federal Agency, the Recipient may bill at the federal rate up to the Budget rate caps if the following conditions are met:

- The Recipient may bill at the federal provisional rate but must adjust annually to reflect their actual final rates for the year in accordance with the Labor, Fringe, and Indirect Invoicing Instructions which can be accessed at www.energy.ca.gov/contracts/pier/PIERInvoicingInstructions.doc.
- The cost pools used to develop the federal rates must be allocable to the Commission Agreement, and the rates must be representative of the portion of costs benefiting the Commission Agreement. For example, if the federal rate is for manufacturing overhead at the Recipient's manufacturing facility and the Commission Agreement is for research and development at their research facility, the federal indirect overhead rate would not be applicable to the Commission Agreement.
- The federal rate must be adjusted to exclude any costs that are specifically prohibited in the Commission Agreement.
- The Recipient may only bill up to the Agreement Budget rate caps unless and until an amendment to the Agreement Budget is approved.

g. Retention

It is the Commission's policy to retain 10 percent of any payment request or 10 percent of the total Commission award at the end of the project. After the project is complete the Recipient must submit a completed payment request form requesting release of the retention. The Commission Project Manager will review the project file and, when satisfied that the terms of the funding Agreement have been fulfilled, will authorize release of the retention.

h. State Controller's Office

Payments are made by the State Controller's Office.

18. Fiscal Accounting Requirements

The Recipient shall review and comply with the administrative requirements outlined in the applicable sections of the OMB circulars and/or federal regulations incorporated as part of the funding Agreement. The OMB circulars and/or federal regulations are supplemented with the following requirements:

a. Accounting and Financial Methods

The Recipient shall establish a separate ledger account or fund for receipt and disbursement of Commission funds for each project funded by the Commission. Expenditure details must be maintained in accordance with the approved budget details using appropriate accounting practices.

b. Retention of Records

The Recipient shall retain all project records (including financial records, progress reports, and payment requests) for a minimum of three (3) years after the final payment has been received or three years after the federal grant term, whichever is later, unless otherwise specified in the funding Agreement.

Records for nonexpendable personal property acquired with grant funds shall be retained for three years after its final disposition or three years after the federal grant term, whichever is later.

c. Audits

Upon written request from the Commission, the Recipient shall provide detailed documentation of all expenses at any time throughout the project. In addition, the Recipient agrees to allow the Commission or any other agency of the State or the Federal Government, or their designated representative, upon written request, to have reasonable access to and the right of inspection of all records that pertain to the project during the term of this Agreement and for a period of three (3) years thereafter or three years after the federal grant term, whichever is later, unless the Commission notifies the Recipient, prior to the expiration of such three-year period, that a longer period of record retention is necessary. Further, the Recipient agrees to incorporate an audit of this project within any scheduled audits, when specifically requested by the State. Recipient agrees to include a similar right to audit in any subcontract.

Recipients are strongly encouraged to conduct annual audits in accordance with the single audit concept. The Recipient should provide two copies of the independent audit report and any resulting comments and correspondence to the Commission Project Manager within 30 days of the completion of such audits.

d. Cost or Match Share

If the grant Budget includes cost or match share under this Agreement, the Recipient agrees to be liable for the percentage of cost or match share identified in this Agreement of the total allowable project costs incurred even if the project is terminated early or is not funded to its completion.

Total allowable project cost is the sum of the Agreement share and Recipient share of the project costs. *Cost share* percentage is calculated by dividing Recipient cost share amount by the total allowable project cost. *Match share* percentage is calculated by dividing Recipient match share by the Agreement share of the project costs.

Failure to provide the minimum required cost or match share may result in the subsequent recovery of some or all of the funds provided under this Agreement.

The Recipient must maintain accounting records detailing the expenditure of the match (actual cash and in-kind services) and provide complete documentation of expenditures as described under "Payment of Funds."

19. Indemnification

The Recipient agrees to indemnify, defend, and save harmless the State, its officers, agents, and employees from any and all claims and losses accruing or resulting to Recipient and to any and all contractors, subcontractors, materialmen, laborers, and any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the Recipient in the performance of this Agreement.

20. Disputes

In the event of a dispute or grievance between Recipient and the Commission regarding this Agreement, the following two-step procedure shall be followed by both parties. Recipient shall continue with responsibilities under this Agreement during any dispute.

a. Commission Dispute Resolution

The Recipient shall first discuss the problem informally with the Commission Project Manager. If the problem cannot be resolved at this stage, the Recipient must direct the grievance together with any evidence, in writing, to the Commission Grants and Loans Officer. The grievance must state the

issues in the dispute, the legal authority or other basis for the Recipient's position and the remedy sought. The Commission Grants and Loans Officer and the Program Office Manager must make a determination on the problem within ten (10) working days after receipt of the written communication from the Recipient. The Grants and Loans Officer shall respond in writing to the Recipient, indicating a decision supported by reasons. Should the Recipient disagree with the Grants and Loans Officer decision, the Recipient may appeal to the second level.

The Recipient must prepare a letter indicating why the Grants and Loans Officer's decision is unacceptable, attaching to it the Recipient's original statement of the dispute with supporting documents, along with a copy of the Grants and Loans Officer's response. This letter shall be sent to the Executive Director at the Commission within ten (10) working days from receipt of the Grants and Loans Officer's decision. The Executive Director or designee shall meet with the Recipient to review the issues raised. A written decision signed by the Executive Director or designee shall be returned to the Recipient within twenty (20) working days of receipt of the Recipient's letter. The Executive Director may exercise the option of presenting the decision to the Commission at a business meeting. Should the Recipient disagree with the Executive Director's decision, the Recipient may appeal to the Commission at a regularly scheduled business meeting. Recipient will be provided with the current procedures for placing the appeal on a Commission Business Meeting Agenda.

b. Mutual Agreement for Arbitration

Should the Commission's Dispute Resolution procedure described above fail to resolve a dispute or grievance to the satisfaction of the Recipient, either party may seek to have the dispute or grievance resolved through binding arbitration. Both parties must consent before submitting the dispute to arbitration. The arbitration proceeding shall take place in Sacramento County, California, and shall be governed by the commercial arbitration rules of the American Arbitration Association (AAA) in effect on the date the arbitration is initiated. The dispute or grievance shall be resolved by one (1) arbitrator who is an expert in the particular field of the dispute or grievance. The arbitrator shall be selected in accordance with the aforementioned commercial arbitration rules. If arbitration is mutually decided by the parties, arbitration is in lieu of any court action and the decision rendered by the arbitrator shall be final (not appealable to a court through the civil process). However, judgment may be entered upon the arbitrator's decision and is enforceable in accordance with the applicable law in any court having jurisdiction over this Agreement. The demand for arbitration shall be made no later than six (6) months after the date of the termination of this Agreement, irrespective of when the dispute or grievance arose, and

irrespective of the applicable statute of limitations for a suit based on the dispute or grievance.

The cost of arbitration shall be borne by the parties as follows:

- The AAA's administrative fees shall be borne equally by the parties;
- The expense of a stenographer shall be borne by the party requesting a stenographic record;
- Witness expenses for either side shall be paid by the party producing the witness;
- Each party shall bear the cost of its own travel expenses;
- All other expenses shall be borne equally by the parties, unless the arbitrator apportions or assesses the expenses otherwise as part of his or her award.

At the option of the parties, any or all of these arbitration costs may be deducted from any balance of Agreement funds. Both parties must agree, in writing, to utilize Agreement funds to pay for arbitration costs.

If the parties do not mutually agree to binding arbitration, the sole forum to resolve the dispute is State court.

21. *Workers' Compensation Insurance*

- a. Recipient hereby warrants that it carries Worker's Compensation Insurance for all of its employees who will be engaged in the performance of this Agreement, and agrees to furnish to the Commission Project Manager satisfactory evidence of this insurance at any time the Commission Project Manager may request.
- b. If Recipient is self-insured for worker's compensation, it hereby warrants such self-insurance is permissible under the laws of the State of California and agrees to furnish to the Commission Project Manager satisfactory evidence of this insurance at any time the Commission Project Manager may request.

22. *General Provisions*

a. Governing Law

It is hereby understood and agreed that this Agreement shall be governed by the laws of the State of California as to interpretation and performance.

b. Independent Capacity

The Recipient, and the agents and employees of the Recipient, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State of California.

c. Assignment

Without the written consent of the Commission in the form of a formal written amendment, this Agreement is not assignable or transferable by Recipient either in whole or in part.

d. Timeliness

Time is of the essence in this Agreement.

e. Unenforceable Provision

In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

f. Waiver

No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this Agreement shall be taken and construed as cumulative, that is, in addition to every other remedy provided therein or by law.

g. Assurances

The Commission reserves the right to seek further written assurances from the Recipient and its team that the work of the project under this Agreement will be performed consistent with the terms of the Agreement.

h. Change in Business

- (1) Recipient shall promptly notify the Commission of the occurrence of each of the following:
 - (a) A change of address.
 - (b) A change in the business name or ownership.
 - (c) The existence of any litigation or other legal proceeding affecting the project.
 - (d) The occurrence of any casualty or other loss to project personnel, equipment or third parties of a type commonly covered by insurance.
 - (e) Receipt of notice of any claim or potential claim against Recipient for patent, copyright, trademark, service mark and/or trade secret infringement that could affect the Commission's rights.
- (2) Recipient shall not change or reorganize the type of business entity under which it does business except upon prior written notification to the Commission. A change of business entity or name change requires an amendment assigning or novating the Agreement to the changed entity. In the event the Commission is not satisfied that the new entity can perform as the original Recipient, the Commission may terminate this Agreement as provided in the termination paragraph.

i. Survival of Terms

It is understood and agreed that certain provisions shall survive the completion or termination date of this Agreement for any reason. The provisions include, but are not limited to:

- "Payments of Funds"
- "Equipment"
- "Change in Business"
- "Disputes"
- "Termination"
- "Audit"
- "Indemnification"
- "License"
- "Fiscal Accounting Requirements"

23. Certifications and Compliance

a. Federal, State and Municipal Requirements

Recipient must obtain any required permits and shall comply with all applicable federal, State, and municipal laws, rules, codes, and regulations for work performed under this Agreement.

b. Nondiscrimination Statement of Compliance

During the performance of this Agreement, Recipient and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, and denial of family care leave. Recipient and its subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment. Recipient and its subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Sections 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part of it as if set forth in full. Recipient and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

The Recipient shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Agreement.

c. Drug-Free Workplace Certification

By signing this Agreement, the Recipient hereby certifies under penalty of perjury under the laws of the State of California that the Recipient will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

- (1) Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against

employees for violations as required by Government Code Section 8355(a).

- (2) Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
 - The dangers of drug abuse in the workplace;
 - The person's or organization's policy of maintaining a drug-free workplace;
 - Any available counseling, rehabilitation, and employee assistance programs; and
 - Penalties that may be imposed upon employees for drug abuse violations.
- (3) Provide, as required by Government Code Section 8355(c), that every employee who works on the proposed project:
 - Will receive a copy of the company's drug-free policy statement;
 - Will agree to abide by the terms of the company's statement as a condition of employment on the project.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both, and the Recipient may be ineligible for any future State awards if the Commission determines that any of the following has occurred: (1) the Recipient has made false certification, or (2) violates the certification by failing to carry out the requirements as noted above.

d. Child Support Compliance Act (Applicable to California Employers)

For any Agreement in excess of \$100,000, the Recipient acknowledges that:

- It recognizes the importance of child and family support obligations and shall fully comply with all applicable State and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

- To the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

e. Americans with Disabilities Act

By signing this Agreement, Recipient assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101, et seq.), which prohibits discrimination on the basis of disability, as well as applicable regulations and guidelines issued pursuant to the ADA.

24. Additional Requirements for Federally Funded Grants

For purposes of this Section 24, the term “subawardee” refers to any entity other than a vendor that receives funding from the Recipient to carry out or support any portion of this Agreement. The term “vendor” refers to those entities defined as such by OMB Circular A-133 (see Subpart B, Sections .105 and .210). The Recipient must include all of the provisions below in its agreements with subawardees. It must include in its agreements with vendors only the provisions below that reference vendors.

a. Site Visits

The California Energy Commission, the federal awarding agency, and/or their designees have the right to make site visits at reasonable times to review project accomplishments and management control systems and to provide technical assistance, if required. Recipient must provide and must require subawardees to provide reasonable facilities and assistance for the safety and convenience of the government representatives in the performance of their duties. All site visits and evaluations must be performed in a manner that does not unduly interfere with or delay the work.

b. Notice Regarding the Purchase of American-Made Equipment and Products – Sense of Congress

It is the sense of the Congress of the United States that, to the greatest extent practicable, all equipment and products purchased with funds made available under this award should be American-made.

c. Nondiscrimination Clause

This award is subject to the provisions of 10 CFR Part 1040.1 *et seq.* The Recipient will complete and certify by signature on the DOE Form 1600.5, U.S. DOE “Assurance of Compliance, Nondiscrimination in Federally

Assisted Programs” (Exhibit B, Attachment 1) its commitment to comply with this law and return to the Commission Grants and Loans Officer.

- d. Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements

This award is subject to the provisions of 10 CFR Part 601, 10 CFR Part 606, and 10 CFR Part 607. The Recipient will complete and certify by signature on the attached federal Form “Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements” (Exhibit B, Attachment 2) its commitment to comply with these requirements and return to the Commission Grants and Loans Officer.

- e. Lobbying Activities

By accepting funds under this award, the Recipient agrees that none of the funds obligated under this agreement shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

If applicable, the Recipient shall disclose lobbying activities by completing and signing the “Disclosure of Lobbying Activities” (Exhibit B, Attachment 3) and returning it to the Commission Grants and Loans Officer.

- f. National Policy Assurances

The Recipient agrees to adhere to and include in all subawards the requirements set forth in the attached “National Policy Assurances” (Exhibit B, Attachment 4 of this Agreement).

- g. Federal Intellectual Property Provisions

(1) In addition to the “License” provisions in Section 15 of this Agreement, the Recipient must conform to “Federal Intellectual Property Provisions” (Exhibit B, Attachment 5) included in this Agreement.

(2) Questions regarding intellectual property matters should be referred to the DOE Award Administrator and the Patent Counsel designated as the service provider for the DOE office that issued the award. The IP Service Providers List is found at [http://www.gc.doe.gov/documents/Intellectual_Property_\(IP\)](http://www.gc.doe.gov/documents/Intellectual_Property_(IP))

Service Providers for Acquisition.pdf.

h. Preservation of Open Competition and Government Neutrality Towards Contractors' Labor Relations on Federally Funded Construction Projects

- (1) Unless in conflict with state or local laws, the Recipient must ensure that bid specifications, project agreement, or other controlling documents in construction contracts awarded pursuant to this Agreement, or pursuant to a subaward to this Agreement, do not:
 - Require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations, on the same or other related construction project(s); or
 - Otherwise discriminate against bidders, offerors, contractors, or subcontractors for becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one or more labor organizations, on the same or other related construction project(s).
- (2) The term "construction contract" as used in this provision means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.
- (3) Nothing in this provision prohibits bidders, offerors, contractors, or subcontractors from voluntarily entering into agreements with labor organizations.

i. Decontamination and/or Decommissioning (D &D) Costs

Notwithstanding any other provisions of this Agreement, the Government shall not be responsible for or have any obligation to the Recipient or its subawardees for (i) Decontamination and/or Decommissioning (D&D) of any of the Recipient's or its subawardees' facilities, or (ii) any costs which may be incurred by the Recipient or its subawardees in connection with the D&D of any of its facilities due to the performance of the work under this Agreement, whether said work was performed prior to or subsequent to the effective date of this Agreement.

j. National Environmental Policy Act (NEPA) Compliance

The Recipient is restricted from taking any action using federal funds for projects under this award that would have an adverse effect on the

environment or limit the choice of reasonable alternatives prior to DOE providing a final NEPA determination regarding these projects.

If the Recipient moves forward with activities that are not authorized for federal funding by the DOE Contracting Officer in advance of the final NEPA determination, the Recipient is doing so at risk of not receiving federal funding, and such costs may not be recognized as allowable cost share.

k. Historic Preservation

Prior to the expenditure of federal funds to alter any structure or site, the Recipient is required to comply with the requirements of Section 106 of the National Historic Preservation Act (NHPA), consistent with DOE's 2009 letter of delegation of authority regarding the NHPA. Section 106 applies to historic properties that are listed in or eligible for listing in the National Register of Historic Places. In order to fulfill the requirements of Section 106, the Recipient must contact the State Historic Preservation Officer (SHPO), and, if applicable, the Tribal Historic Preservation Officer (THPO), to coordinate the Section 106 review outlined in 36 CFR Part 800. SHPO contact information is available at the following link: <http://www.ncshpo.org/find/index.htm>. THPO contact information is available at the following link: <http://www.nathpo.org/map.html>.

Section 110(k) of the NHPA applies to DOE funded activities. Recipients shall avoid taking any action that results in an adverse effect to historic properties pending compliance with Section 106.

Recipients should be aware that the DOE Contracting Officer will consider the Recipient in compliance with Section 106 of the NHPA only after the Recipient has submitted adequate background documentation and the SHPO/THPO has provided written concurrence that it does not object to its Section 106 finding or determination. The Recipient shall provide a copy of this concurrence to the Commission and the Contracting Officer.

If the Recipient's project involves alteration of any structure or site, the Commission Grants and Loans Office will provide further guidance on the Section 106 process.

l. Availability of Federal Funds

It is mutually agreed that partial or whole funding for this Agreement is dependent upon a federal agreement (DE-EE0000905) that has a scheduled budget period end date of September 13, 2012, and is subject to the following provisions: (1) This Agreement is subject to any additional restrictions, limitations, or conditions enacted by Congress or any statute

enacted by Congress that may affect the provisions, terms, or funding of this Agreement; (2) Funding for this Agreement is subject to the approval of the U.S. Department of Energy (DOE) and to any additional restrictions, limitations, or conditions imposed by DOE, federal law, federal court judgments, and/or federal agency orders which may affect the provisions or terms of this Agreement; (3) If Congress does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds; and (4) The Commission has the option to invalidate the Agreement under the 30-day cancellation clause or to amend the Agreement to reflect any reduction in funds.

m. Resolution of Conflicting Terms

Any apparent inconsistency between federal statutes and regulations and the terms and conditions contained in this award must be referred to the Commission's Chief Counsel's Office for guidance.

n. Statement of Federal Stewardship

DOE will exercise normal federal stewardship in overseeing the project activities performed under this award. Stewardship activities include, but are not limited to, conducting site visits; reviewing performance and financial reports; providing technical assistance and/or temporary intervention in unusual circumstances to correct deficiencies which develop during the project; assuring compliance with terms and conditions; and reviewing technical performance after project completion to ensure that the award objectives have been accomplished.

o. Utility Rebates

Language to be provided and posted at a later date prior to Application submittal deadline.

p. Waste Stream

Prior to expenditure of federal funds to dispose of sanitary or hazardous waste, the Recipient is required to provide documentation to the Commission's Grants and Loans Officer demonstrating that it has prepared a disposal plan for sanitary or hazardous waste generated by the proposed activities. Sanitary or hazardous waste includes, but is not limited to, old light bulbs, lead ballasts, piping, roofing material, discarded equipment, debris, asbestos, etc.

The Commission will forward the documentation to the DOE Contracting Officer. The DOE Contracting Officer shall consider compliance with this clause complete only after the Commission has submitted the Recipient's

adequate documentation to DOE for its review, and DOE has provided written approval to the Commission of the Recipient's proposed plan to dispose of its sanitary or hazardous waste.

q. Project Extensions

Project extensions are not permitted for EECBG grants. Projects must be completed and operational by the ending term date of this Agreement. If a project cannot be completed within the term of this Agreement, the Agreement will be terminated and remaining grant funds deobligated.

25. Special Provisions Relating to Work Funded Under the American Recovery and Reinvestment Act of 2009

For purposes of this Section 25, the term “subawardee” refers to any entity other than a vendor that receives funding from the Recipient to carry out or support any portion of this Agreement. The term “vendor” refers to those entities defined as such by OMB Circular A-133 (see Subpart B, Sections .105 and .210). The Recipient must include all of the provisions below in its agreements with subawardees. It must include in its agreements with vendors only the provisions below that reference vendors.

a. ARRA Funded Project

Funding for this award is from the American Recovery and Reinvestment Act (ARRA) of 2009, Pub. L. 111-5. Funding for this award is authorized by Public Resources Code, Section 25422, and the State Energy Program, Federal Grant Number DE-EE0000905, CFDA Number 81.128. The federal grant term expires on September 13, 2012. All recipients and subawardees/vendors are subject to audit by appropriate federal or State entities. The State has the right to cancel, terminate, or suspend this Agreement if the Recipient or its subawardee fails to comply with the reporting and operational requirements contained herein.

b. Enforceability

The Recipient agrees that if it or one of its subawardees/vendors fails to comply with all applicable federal and State requirements governing the use of ARRA funds, the State may withhold or suspend, in whole or in part, funds awarded under the program, or recover misspent funds following an audit. This provision is in addition to all other remedies available to the State under all applicable State and federal laws.

c. Registration Requirements

Prior to beginning work, the Recipient must obtain a Dun and Bradstreet Data Universal Numbering System (DUNS) number and register with the Central Contract Registration (CCR). Websites are as follows:

DUNS website: http://www.dnb.com/US/duns_update

CCR website: <http://www.ccr.gov>

The Recipient must maintain current registrations in the CCR at all times during which it has an active award funded with ARRA funds. A DUNS Number is one of the requirements for registration in the CCR.

d. Segregation of Costs and Records

The Recipient and its subawardee/vendors must segregate the obligations and expenditures related to funding under ARRA. Financial and accounting systems should be revised as necessary to segregate, track, and maintain these funds apart and separate from other revenue streams. No part of the funds from ARRA shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowable for ARRA projects. Pursuant to 10 CFR Section 600.242 (incorporated by reference herein), records must be maintained for three (3) years after the Commission grant term or federal grant term, whichever is later, unless the Commission or Federal Government requests a longer retention period.

The Recipient and its subawardees/vendors must keep separate records for ARRA funds to ensure those records comply with the requirements of ARRA. If this grant is split-funded with non-ARRA funds, the Recipient must track and report the ARRA funds separately to meet the reporting requirements of ARRA and related guidance.

e. Prohibition on Use of ARRA Funds

The Recipient agrees that, in accordance with ARRA, Section 1604, that none of the funds provided under this Agreement derived from ARRA may be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

f. Access to Records

In accordance with ARRA Sections 902, 1514, and 1515, the Recipient agrees that it shall permit the State of California, the United States Comptroller General or his representative, or the appropriate Inspector General appointed under Section 3 or 8G of the United States Inspector General Act of 1978 or his representative to: (1) examine any records of the Recipient or any of its subawardees/vendors that directly pertain to, and involve transactions relating to, this Agreement; and (2) interview any officer or employee of the Recipient or any of its subawardees/vendors regarding the activities funded with funds appropriated or otherwise made available by ARRA. The Recipient shall include this provision in all of its agreements with its subawardees/vendors from whom it acquires goods or services in its execution of the ARRA-funded work.

g. Publication

Information about this Agreement will be published on the Internet and linked to the website www.recovery.gov, maintained by the Accountability and Transparency Board. The Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security or to protect information that is not subject to disclosure under sections 552 and 552a of title 5, United States Code.

h. Protecting State and Local Government and Contractor Whistleblowers

The Recipient agrees that both it and its subawardee/vendors shall comply with Section 1553 of ARRA, which prohibits all non-federal contractors, including the State, and all contractors of the State, from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of: (1) gross mismanagement of a contract relating to ARRA funds; (2) a gross waste of ARRA funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of ARRA funds; (4) an abuse of authority related to implementation or use of ARRA funds; or (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) awarded or issued relating to ARRA funds. The Recipient agrees that it and its subawardees shall post notice of the rights and remedies available to employees under Section 1553 of Title XV of Division A of the ARRA.

The requirements of Section 1553 of the ARRA are summarized below. They include, but are not limited to:

Prohibition on Reprisals: An employee of any non-federal employer receiving covered funds under ARRA may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer who has the authority to investigate, discover or terminate misconduct), a court or grand jury, the head of a federal agency, or their representatives, information that the employee believes is evidence of:

- Gross management of an agency contract or grant relating to covered funds;
- A gross waste of covered funds;
- A substantial and specific danger to public health or safety related to the implementation or use of covered funds;
- An abuse of authority related to the implementation or use of covered funds; or
- A violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.

Agency Action: Not later than 30 days after receiving an inspector general report of an alleged reprisal, the head of the agency shall determine whether there is sufficient basis to conclude that the non-federal employer has subjected the employee to a prohibited reprisal. The agency shall either issue an order denying relief in whole or in part or shall take one or more of the following actions:

- Order the employer to take affirmative action to abate the reprisal.
- Order the employer to reinstate the person to the position that the person held before the reprisal, together with compensation including back pay, compensatory damages, employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.
- Order the employer to pay the employee an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the employee for or in connection with, bringing the complaint regarding the reprisal, as determined by the head of a court of competent jurisdiction.

Non-enforceability of Certain Provisions Waiving Rights and Remedies or Requiring Arbitration: Except as provided in a collective bargaining agreement, the rights and remedies provided to aggrieved employees by this section may not be waived by any agreement, policy, form, or condition of employment, including any predispute arbitration agreement. No predispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising out of this section.

Requirement to Post Notice of Rights and Remedies: Any employer receiving covered funds under ARRA shall post notice of the rights and remedies as required therein. (Refer to Section 1553 of ARRA located at www.recovery.gov, for specific requirements of this section and prescribed language for the notices.)

i. Information in Support of ARRA Reporting

The Recipient will be required to submit backup documentation for expenditures of funds under ARRA including such items as timecards and invoices. See Section 17, Payment of Funds, for more details on invoicing. In addition to the invoicing requirements, the Recipient shall provide copies of backup documentation at the request of the U.S. Department of Energy's (DOE's) Contracting Officer or designee, or the Energy Commission's Contract Manager or designee.

j. False Claims Act

The Recipient agrees that it shall promptly notify the State and shall refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, subawardee/vendor or other person has committed a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving ARRA funds.

k. Availability of Funds

Funds appropriated under ARRA and obligated to this award are available for reimbursement of costs until the end of your grant term or September 13, 2012, whichever comes first.

l. Reporting and Registration Requirements under Section 1512 of ARRA

- (1) This award requires the Recipient to complete projects or activities which are funded under ARRA and to report on use of ARRA funds provided through this award. Information from these reports will be made available to the public.
- (2) The reports are due in accordance with Section 6, Reports, of this Agreement in addition to this section.
- (3) Progress reports are due monthly by the third of the following month. For example, the January progress report is due by February 3.
- (4) The Recipient must maintain current registration in the CCR (<http://www.ccr.gov>) at all times during which it has an active federal award funded with ARRA funds. A DUNS Number (<http://www.dnb.com>) is one of the requirements for registration in the CCR.

- (5) The Recipient shall report the information described in Section 1512(c) of ARRA and other information reasonably requested by the State or required by the Federal Government or by the State to meet their obligation to provide accurate, complete, and timely information to the public; to meet the federal program reporting requirements; and/or to comply with State or federal law or regulation. Standard data elements and federal instructions for use in complying with reporting requirements under Section 1512 of ARRA are pending review by the Federal Government, were published in the Federal Register on April 1, 2009 (74 FR 14828), and are to be provided online at www.FederalReporting.gov.
- (6) The Recipient shall submit reports to the Commission's Project Manager in a format determined by the Commission. The Recipient must NOT register at FederalReporting.gov.
- (7) The Recipient must provide information including, but not limited to, the following:
 - (a) ARRA Section 1512 Report
 - Direct jobs created (i.e., new positions created and filled or unfilled positions that are filled) and jobs retained (i.e., previously existing filled positions that are retained as a result of ARRA funds). Only include jobs that are directly funded by ARRA funds. The number shall be expressed as "full-time equivalent" (FTE), calculated cumulatively as all hours worked divided by the total number of hours in a full-time schedule.
 - Description of jobs created. Provide a brief description of impact on the Recipient's workforce and include the types of jobs created and retained. Include time base (full-time or part-time) and duration (1 year, 1-2 years, 2-5 years, or more than 5 years).
 - Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number.
 - Central Contractor Registration (CCR) number.
 - Award number.
 - Name (legal name as registered in CCR or D&B).
 - The Doing-Business-As (DBA) name as registered in CCR or D&B.
 - Address (physical location as listed in the CCR).
 - Congressional district (based on physical location address).

- Type of entity (this is the “Business Type” in the CCR).
- Amount awarded (total amount of the Commission agreement).
- Amount received (total cumulative amount of Commission agreement funds received as of the reporting period).
- Date of award (date the Commission agreement was signed).
- Award period (term of the Commission agreement).
- Place of performance (the physical location of primary place of performance, including street address, city, state, zip code+4, country, congressional district, state senate district, and state assembly district).
- Area of benefit (e.g., state, county, city, special district).
- Names and total compensation of five most highly compensated officers for the calendar year in which the agreement is awarded if,
 - In the Recipient’s preceding fiscal year, the Recipient received –
 - 80 percent or more of its annual gross revenues from federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and
 - \$25,000,000 or more in annual gross revenues from federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements
 - The public does not have access to information about the compensation of the senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or section 6104 of the Internal Revenue Code of 1986.
- Vendor Data Elements (purchases \$25,000 or above)
 - DUNS or name.
 - Zip code of Headquarters.
 - Description of the product and/or service provided by the vendor.
 - The amount invoiced from the vendor (aggregated) that will be paid with ARRA funds.

(b) Federal and State Program Status Report

- A comparison of the actual accomplishments with the goals and objectives established for the period and reasons why the established goals were not met.
- A discussion of what was accomplished under these goals during this reporting period, including major activities, significant results, major findings or conclusions, key outcomes or other achievements. This section should not contain any proprietary data or other information not subject to public release. If such information is important to reporting progress, do not include the information, but include a note in the report advising the reader to contact the Principal Investigator or the Project Director for further information.
- Cost Status. Show approved budget by budget period and actual costs incurred. Separate costs by project activities, administration, and evaluation.
- Schedule Status. List milestones, anticipated completion dates, and actual completion dates.
- Any changes in approach or aims, and reasons for change.
- Actual or anticipated problems or delays, and actions taken or planned to resolve them.
- Any absence or changes of key personnel or changes in consortium/teaming arrangement.
- A description of any product produced or technology transfer activities accomplished during this reporting period, such as:
 - Publications (list journal name, volume, issue); conference papers; or other public releases of results.
 - Web site or other Internet sites that reflect the results of this project.
 - Networks or collaborations fostered.
 - Technologies/techniques.
 - Inventions/patent applications.
 - Other products, such as data or databases, physical collections, audio or video, software or netware, models, educational aid or curricula, instruments or equipment.
- Performance Metrics
 - Energy saved (kWh, therms, gallons, Btu, etc.).

- Renewable energy installed capacity and generated.
 - GHG emissions reduced (tons) (CO₂ equivalents) (methane, carbon, sulfur dioxide, nitrogen oxide, carbon monoxide).
 - Energy cost savings.
 - Funds leveraged.
 - Project type metrics. The key metrics to be reported will vary by project type. See Exhibit B, Attachment 6, Project Type Metrics.
- m. Required Use of American Iron, Steel, and Manufactured Goods (Covered Under International Agreements) — Section 1605 of the American Recovery and Reinvestment Act of 2009

The Recipient agrees that in accordance with ARRA, Section 1605, neither it nor its subawardees/vendors will use ARRA funds for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel and manufactured goods used in the project are produced in the United States in a manner consistent with United States obligations under international agreements. The Recipient understands that this requirement may only be waived by the applicable federal agency in limited situations as set out in ARRA, Section 1605.

(1) Definitions. As used in this award term and condition—

- (a) Manufactured good means a good brought to the construction site for incorporation into the building or work that has been—
- Processed into a specific form and shape; or
 - Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.
- (b) Public building and public work means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters,

levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

- (c) Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(2) Domestic preference.

- (a) This award term and condition implements Section 1605 of the ARRA by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States except as provided in paragraph 2b and 2c of this section and condition.

- (b) This requirement does not apply to the material listed by the Federal Government as follows:

—None

- (c) The award official may add other iron, steel, and/or manufactured goods to the list in paragraph 2b of this section and condition if the Federal Government determines that—

- The cost of the domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;
- The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
- The application of the restriction of Section 1605 of the ARRA would be inconsistent with the public interest.

(3) Request for determination of inapplicability of Section 1605 of the ARRA.

- (a) (i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph 2c of this section shall include adequate information for

Federal Government evaluation of the request, including—

- A description of the foreign and domestic iron, steel, and/or manufactured goods;
 - Unit of measure;
 - Quantity;
 - Cost;
 - Time of delivery or availability;
 - Location of the project;
 - Name and address of the proposed supplier; and
 - A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph 2c of this section.
- (ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph 4 of this section.
- (iii) The cost of iron, steel, and/or manufactured goods material shall include all delivery costs to the construction site and any applicable duty.
- (iv) Any recipient request for a determination submitted after ARRA funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.
- (b) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to Section 1605 of the ARRA applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other actions taken to cover costs associated with acquiring or using the foreign iron, steel,

and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds by at least the differential established in 2 CFR 176.110(a).

- (c) Unless the Federal Government determines that an exception to Section 1605 of the ARRA applies, use of foreign iron, steel, and/or manufactured goods is noncompliant with Section 1605 of ARRA.
- (4) Data. To permit evaluation of requests under paragraph 2 of this section based on unreasonable cost, the Recipient shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Items Cost Comparison

<u>Description</u>	<u>Unit of Measure</u>	<u>Quantity</u>	<u>Cost (\$s)</u>
Item 1:			
Foreign steel, iron, or manufactured good	_____	_____	_____
Domestic steel, iron, or manufactured good	_____	_____	_____
Item 2:			
Foreign steel, iron, or manufactured good	_____	_____	_____
Domestic steel, iron, or manufactured good	_____	_____	_____

[List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]

[Include other applicable supporting information.]

[*Include all delivery costs to the construction site.]

n. Wage Rate Requirements under Section 1606 of the ARRA

In accordance with ARRA, Section 1606, the Recipient assures that it and its subawardees/vendors shall fully comply with said Section and notwithstanding any other provision of law and in a manner consistent with other provisions of ARRA, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to ARRA shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the United States Secretary of Labor in accordance with Subchapter IV of Chapter 31

of Title 40, United States Code (Davis-Bacon Act). It is understood that the Secretary of Labor has the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and Section 3145 of Title 40, United States Code.

Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section.

The Recipient will complete and certify by signature on Attachment 7 of this Agreement its commitment to comply with 29 CFR 5.5 and will return it to the Commission Grants and Loans Officer.

o. ARRA Transactions Listed in Schedule of Expenditures of Federal Awards

- (1) To maximize the transparency and accountability of funds authorized under ARRA as required by Congress and in accordance with 2 CFR 215.21 "Uniform Administrative Requirements for Grants and Agreements" and OMB Circular A-102 Common Rules provisions, the Recipient agrees to maintain records that identify adequately the source and application of ARRA funds. OMB Circular A-102 is available at <http://www.whitehouse.gov/omb/circulars/a102/a102.html>.
- (2) If the Recipient is covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," the Recipient agrees to separately identify the expenditures for federal awards under the ARRA on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. OMB Circular A-133 is available at <http://www.whitehouse.gov/omb/circulars/a133/a133.html>. This shall be accomplished by identifying expenditures for federal awards made under the ARRA separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA-" in identifying the name of the federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.
- (3) The Recipient agrees to separately identify to each subawardee, and document at the time of subaward and at the time of disbursement of funds, the federal award number, CFDA number, and amount of ARRA funds. When the Recipient awards ARRA funds for an existing program, the information furnished to

subawardees shall distinguish the subawards of incremental ARRA funds from regular subawards under the existing program.

- (4) The Recipient agrees to require its subawardees to include on their SEFA information to specifically identify ARRA funding similar to the requirements for the recipient SEFA described above. This information is needed to allow the recipient to properly monitor subawardee expenditure of ARRA funds as well as oversight by the federal awarding agencies, Offices of Inspector General, and the Government Accountability Office.

p. Data in Support of Energy Savings and Emission Reductions

- (1) The Commission may request utility bill data from ARRA EECBG program participants to track program energy saving and greenhouse gas emission reduction impacts. Upon request, ARRA EECBG program participants must be prepared to provide utility billing data for at least the 12 months preceding and the 12 months following the project's implementation of a building retrofit project. To ease the burden of this data provision by the participant, the Commission will work with the participant's utility company to facilitate the electronic exchange of the required billing data. The Recipient authorizes the Commission to exchange this data with the Recipient's energy utility company and agrees to complete an authorization form if requested by the Commission.
- (2) Upon written request from the Commission, the Recipient and its subawardees shall allow the Commission or its agent access to facilities and records and allow the Commission or its agent to collect data needed to measure and verify electricity and fuel reductions (this may include but is not limited to utility bills, metering data, facility equipment surveys, information on operational practices, and site occupancy levels). Further, if requested, the Recipient and subawardees must provide the Commission or its agent associated data from a period prior to the start of the project as necessary to establish baseline energy and/or fuel use. The Recipient shall include this provision in its subaward agreements.

q. State ARRA Guidelines for Energy Efficiency and Conservation Block Grant Program

The Commission's *Block Grant Guidelines*, dated October 7, 2009, (publication number CEC-150-2009-002-CMF-REV1) are hereby incorporated by reference and made a part of this Agreement. The Recipient warrants that it has read and understands the Guidelines and

acknowledges that requirements specified therein apply to the Recipient and the funding provided under this Agreement. The Recipient acknowledges that the Guidelines are subject to change pursuant to Public Resources Code Section 25462 and that any changes made to the Guidelines shall apply to the Recipient and the funding provided under this Agreement.

EXHIBIT A
PAYMENT REQUEST FORM

STATE OF CALIFORNIA
FINANCIAL STATUS REPORT OR PAYMENT REQUEST

Grant
CEC 211-(a) (Rev. 1/01)

CALIFORNIA ENERGY COMMISSION

Payment Request No.:

Instructions are on the reverse

Recipient (Name and Address)		Type of Request ____ Reimbursement ____ Status Report Only ____ Release Retention		Amount of this Request \$ _____	
		Period Covered by this Request to			
Grant No.	Recipient ID No.	Approved Project Term to		Funding History Funds Requested to Date: \$ _____ Funds Received to Date: \$ _____ Expenses to Date: \$ _____ Funds on Hand: \$ _____ Interest Earned to Date: \$ _____	
ENERGY COMMISSION SHARE Line Item	Budget	Expenses this Period	Expenses to Date	Obligations Not Yet Paid	Remaining Balance
Personnel					
Fringe Benefits					
Travel					
Equipment					
Supplies					
Contractual					
Construction					
Other					
Indirect					
TOTAL					
MATCH SHARE Line Item	Budget	Expenses this Period	Expenses to Date	Obligations Not Yet Paid	Remaining Balance
Personnel					
Fringe Benefits					
Travel					
Equipment					
Supplies					
Contractual					
Construction					
Other					
Indirect					
TOTAL					
GRAND TOTAL					

RECIPIENT CERTIFICATION		ENERGY COMMISSION USE ONLY (-NS-)	
I certify to the best of my knowledge and belief that this report is correct and complete and all outlays and obligations are for the purposes set forth in the funding Agreement and that the reimbursement of these costs has not and will not be received under other sources including, but not limited to, a Government Entity contract, subcontract, or other procurement method.		Amount Authorized	
Signature of Authorized Certifying Officer	Date	Retention Yes _____ No _____	
Type or Print Name and Title	Phone	Fiscal Year	
ENERGY COMMISSION APPROVALS		Appropriation Code	
Commission Project Manager	Date		
Commission Program Manager	Date	Retention	
Grants Office	Date	Amount Scheduled	

INSTRUCTIONS

Payment Request No.: Begin with the number 1 on your first payment request and consecutively number each subsequent payment request. The last payment request should include the notation, "Final."

Recipient (Name and Complete Address): Same as "Recipient" on the Grant Agreement. Address should include the city, state, and zip code.

Type of Request: Indicate if this is a "Reimbursement" or "Status Report Only." Be sure to provide backup documentation. If no funds are being requested, check "Status Report Only."

Amount of this Request: This line shows the amount currently being requested. Indicate the amount being requested.

Period Covered by this Report: The time period covered by this request. The first day of the period should be the day after the last day covered by your previous report. Example: 1/14/94 to 3/31/94.

Grant No.: Same as "Grant Number" on the Grant Agreement. This is the eight digit code assigned by the Energy Commission (example 961-93-000).

Recipient ID No.: This space is for an account number or other identifier that may be assigned by the Recipient (optional).

Approved Project Term: This is the entire project period beginning with the date the project starts through the end date. This date should match the "Term" on the Grant Agreement unless you have received a term extension.

Total Funds Requested to Date: Show the total of all funds requested from the Energy Commission prior to this request.

Funds Received to Date: Show the total amount of funds received from the Energy Commission prior to this request. "Funds Requested to Date" minus any retention withheld equals "Funds Received to date".

Total Expenses to Date: Show the total expenses from the beginning of the project through and including the period covered by this report. This amount should be the same as the "Grand Total" expenses to date.

Funds on Hand: This should be filled in only if you have received any advance funds from the Commission. If you have, show the balance of funds received. ("Funds Received to Date" minus "Expenses to Date" equals "Funds on Hand.")

Interest Earned to Date: Show all interest earned on previously advanced funds.

Line Items: The following budget categories apply to all expenditures invoiced.

- **Budget:** Show by line item the budget as shown in the Grant Agreement.
- **Expenses this Period:** Show by line item the actual payments made by the Recipient during the period covered by this report.
- **Expenses to Date:** Show by line item the cumulative total of all expenses from the beginning of the project through and including the period covered by this report.
- **Obligations Not Yet Paid:** Show by line item all funds obligated on purchase orders, contracts, etc. for which you have received an invoice but have not yet paid.
- **Remaining Balance:** Show by line item the funds available for expenses or obligations. "Budget" minus "Expenses to Date" minus "Obligations Not Yet Paid" equals "Remaining Balance."

Certification: Name, title and signature of authorized certifying official (usually the grant Recipient's project manager).

Submit original and one copy to:

California Energy Commission
Accounting Office
1516 Ninth Street, MS # 2
Sacramento, CA 95814

EXHIBIT B

SPECIAL CONDITIONS FOR PUBLICLY FINANCED PROGRAMS

ADVANCED UNDERSTANDING CONCERNING PUBLICLY FINANCED ENERGY IMPROVEMENT PROGRAMS

The parties recognize that the Recipient may use funds under this award for Property-Assessed Clean Energy (PACE) loans, Sustainable Energy Municipal Financing, Clean Energy Assessment Districts, Energy Loan Tax Assessment Programs (ELTAPS), or any other form or derivation of Special Taxing District whereby taxing entities collect payments through increased tax assessments for energy efficiency and renewable energy building improvements made by their constituents. The Department of Energy intends to publish "Best Practices" or other guidelines pertaining to the use of funds made available to the recipient under this award pertaining to the programs identified herein. By accepting this award, the Recipient agrees to incorporate, to the maximum extent practicable, those Best Practices and other guidelines into any such program(s) within a reasonable time after notification by DOE that the Best Practices or guidelines have been made available. The Recipient also agrees, by its acceptance of this award, to require its subawardees to incorporate to the maximum extent practicable the best practices and other guideline into any such program used by the subawardee.